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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,978	09/27/2003	Daniel H. Katsin	602.06	3513
7590 07/27/2006				
Samuel S. Lee DERGOSITS & NOAH LLP FOUR EMBARCADERO CENTER, SUITE 1450 SAN FRANCISCO, CA 94111			EXAMINER BEFUMO, JENNA LEIGH	
			ART UNIT 1771	PAPER NUMBER

DATE MAILED: 07/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/672,978

Applicant(s)

KATSIN, DANIEL H.

Examiner

Jenna-Leigh Befumo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 1-4, 8, 9 and 19-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-7 and 10-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The Amendment filed on May 4, 2006 has been entered. Claims 5, 7, and 13 have been amended. Therefore, the pending claims are 1 – 24. Claims 1 – 4, 8, 9, and 19 – 24 are withdrawn from consideration as being drawn to a nonelected invention.

2. The amendments to the specification are sufficient to overcome the objections to reference numbers set forth in the previous Office Action.

3. The amendment to the claims are sufficient to overcome the objections to the claims set forth in the previous Office Action.

Drawings

4. The drawings filed on May 4, 2006 are acceptable.

Claim Objections

5. Claims 15 is objected to because of the following informalities: the terms “single-knit terry” and “double-knit” are terms which describe fabric structures and are being used in the claim to describe a microfiber. These claims be clear that the single-knit terry and double knit structure are actually describing the structure of the fabric layer and not the structure of the microfiber. Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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8. The term “chamois microfiber” which is used to describe the first and second layer in claim 14 is indefinite. The applicant argues that the term is understood based on the disclosure (page 4, lines 10 – 13). However, this section uses chamois to describe a type of fabric made with microfibers. Chamois is a known type of fabric. However, the claim uses chamois to describe the microfiber. There is nothing in the claim that makes it clear that the term is suppose to be describing the fabric layer itself, and not the microfibers used to produce the layer. This is also true for the term “terry microfiber” in this claim.

Claim Rejections - 35 USC § 102

9. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

10. Claims 5 – 7 and 10 – 12 are rejected under 35 U.S.C. 102(e) as being anticipated by DeMott et al. (6,770,581).

Claim 5 has been amended to include microfibers in the first and second layers. DeMott et al. discloses that these layers can be made with microfibers. The limitation that the fibers are split microfibers is considered to be a method limitation drawn to how the microfiber is made. However, the method of making the microfiber is not given patentability weight at this time. The fabric would still comprise microfibers regardless of how the microfibers are produced. Thus, claims 5 – 7 and 10 – 12 are anticipated by DeMott et al.

Claim Rejections - 35 USC § 103

11. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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12. Claims 13 – 18 stand rejected under 35 U.S.C. 103(a) as being unpatentable over DeMott et al. for the reasons of record.

Response to Arguments

13. The applicant's arguments filed on May 4, 2006 are not persuasive. The applicant argues that the limitation that the microfiber layer comprises a split microfiber, distinguishes over the prior art because a split microfiber has improved moisture absorbency properties due to furrows and channels (response, page 12). However, the claim itself states that the fabric comprises "a split microfiber". First, the splitting feature is a method of making the microfiber, usually from a multicomponent fiber. In the present claim however, the applicant is not claiming the multicomponent structure, or that the split microfibers comprise different components. Therefore, the prior art only needs to have a single type microfiber to read on the claim limitation, which can be formed by splitting in a separate process and then collected and formed into a yarn.

Second, the applicant has provided no evidence that a split microfiber by itself has the improved properties. The microfibers themselves do not comprise channels as a result of the splitting process. Instead, the channels are created between the microfibers bundled together in the yarn. Thus, splitting does not create a unique structured microfiber. Further, any yarn made from a plurality of microfibers would also comprise a plurality of channels, resulting in the improved properties. Therefore, the applicant's arguments are not sufficient evidence to distinguish the present invention from the prior art. The rejection is maintained.

If the applicant is attempting to limit the microfibers to fibers which are produced by splitting a multicomponent fiber apart after the yarn or fabric has been produced, therefore

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requiring at least two different microfiber components within the yarn and fabric layer, then the claim must recite more limitations with regards to what the microfibers are split from and when the microfibers are split.

Additionally, the applicant argues that it would not have been obvious to use microfibers in the middle layer of the composite taught by DeMott et al. (response, page 13). However, DeMott et al. does not teach away from the suggestion. In fact, DeMott et al. is teaching to use chemically treated polyester instead of cotton or cotton blended fabrics. DeMott et al. is not concerned with the chemical treatment wearing off of the outer layers during its useful lifetime. Hence, since DeMott et al. teaches the treated polyester microfibers can be used to create useful absorbent outer fabric layers, the microfibers would also be useful in the center absorbent layer suggested by DeMott et al. If the microfibers were not useful due to the chemical treatment quickly wearing off, then the microfibers would not be useful in any of the layers of the composite disclosed by DeMott et al. Thus, the rejection is maintained.

Finally, the applicant argues that the limitation in claim 12 and 18 that the stitching is along the inner surface areas of the layers in parallel lines is not taught by prior art (response, pages 12 and 13). However, the inner surface is not limited to the central region of the composite fabric between the stitching at the edges as argued by the applicant. For purposes of examination, the inner surface can also be the face of the outer fabric layers facing the middle layer of the composite. Further, the stitching at the edging extends through the outer surface of the first outer layer, through the inner surface of the first outer layer, through the inner surface of the second outer layer, through the outer surface of the second outer layer, and back again. Thus, the stitching is through the inner surface of the fabric layers and in parallel lines to at least the

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stitching on the opposite edge. This is considered to meet the claimed limitations. The applicant needs to more clearly limit the inner surface to limit the claim to the interpretation argued by the applicant. Therefore, the rejection is maintained.

Conclusion

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

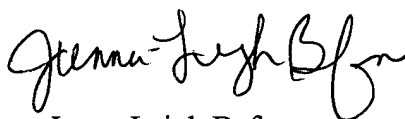
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenna-Leigh Befumo whose telephone number is (571) 272-1472. The examiner can normally be reached on Monday - Friday (8:00 - 5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'Jenna-Leigh Befumo', with a stylized flourish at the end.

Jenna-Leigh Befumo
July 24, 2006